

SERVICE DATE – JUNE 14, 2013

**SURFACE TRANSPORTATION BOARD  
WASHINGTON, DC 20423**

**ENVIRONMENTAL ASSESSMENT**

**Docket No. AB 1068 (Sub-No. 1X)**

**Missouri Central Railroad Company – Abandonment and Discontinuance of Service  
Exemption – In Cass, Henry, Johnson, and Pettis Counties, Mo.**

**AND**

**Docket No. AB 1070 (Sub-No. 1X)**

**Central Midland Railway Company – Discontinuance of Service and Operating Rights  
Exemption – In Cass, Henry, Johnson, and Pettis Counties, Mo.**

**BACKGROUND**

In this proceeding, the Missouri Central Railroad Company (MCRR) and Central Midland Railway Company (CMR) (collectively, Applicants) filed a notice under 49 C.F.R. § 1152.50 seeking exemption from the requirements of 49 U.S.C. § 10903 for MCRR to abandon and for MCRR and CMR to discontinue service over, an approximately 42-mile rail line in Cass, Henry, Johnson, and Pettis Counties, Missouri. The rail line extends from milepost 257.283 near Wingate in Cass County, to milepost 215.325 near Windsor in Pettis County. The proposed abandonment traverses U.S. postal zip codes 64080, 64061, and 64040 in Cass County; U.S. postal zip codes 64061, 64040, 64733, 64726, 64761, and 65360 in Johnson County; and U.S. postal zip code 65360 in Henry County and Pettis County.

The rail line passes through rural areas and the right-of-way is generally 100-feet in width.<sup>1</sup> Farming is the predominant land use, though the line passes near the small towns of Chilowee, Leeton, and Windsor. The surrounding terrain is flat to rolling and the area contains numerous streams and spring seeps. There are 41 bridges and approximately 125± culverts on the line proposed for abandonment and discontinuance. Applicants indicate that the rail line does not contain any federally granted right-of-way. If the notice becomes effective, MCRR would be able to salvage track, ties, and other railroad appurtenances and to dispose of the right-of-way. A map depicting the line in relationship to the area served is appended to this Environmental Assessment (EA).

---

<sup>1</sup> The rail line width varies from 48 feet to 300 feet in places.

## **ENVIRONMENTAL REVIEW**

Applicants submitted an environmental report that concludes the quality of the human environment would not be affected significantly as a result of the abandonment or any post-abandonment activities, including salvage and disposition of the right-of-way. Applicants served the environmental report on a number of appropriate federal, state, and local agencies as required by the Surface Transportation Board's (Board) environmental rules [49 C.F.R. § 1105.7(b)].<sup>2</sup> The Board's Office of Environmental Analysis (OEA) has reviewed and investigated the record in this proceeding.

### ***Diversion of Traffic***

Applicants state that no local traffic has moved over the line proposed for abandonment and discontinuance for at least two years and no overhead traffic would need to be rerouted. Accordingly, the proposed abandonment and discontinuance of service would not adversely impact the development, use and transportation of energy resources or recyclable commodities; transportation of ozone-depleting materials; or result in the diversion of rail traffic to truck traffic that could result in significant impacts to air quality or the local transportation network.

### ***Salvage Activities***

Impacts from salvage and disposal of a rail line typically include removal of tracks and ties, removal of ballast, dismantling of any bridges or other structures that may be present on the rail right-of-way, and regarding of the right-of-way. Salvage may be performed within the right-of-way, or if necessary, via construction of new access points to the right-of-way. If abandonment and discontinuance authority is granted, MCRR would salvage the rail, tie, and track material, but would retain the underlying ballast, and any structures including bridges and culverts so as not to alter or impede existing drainage flows.

MCRR indicates that the proposed abandonment and discontinuance of service is consistent with the State of Missouri's intent to develop the line as a recreational trail. Specifically, the State is interested in establishing a trail on the right-of-way, and MCRR is willing to negotiate rail-banking pursuant to the National Trails System Act at 16 U.S.C. § 1247(d). The trail would be a separate action by the State and would be an extension of a trail currently being developed on the previously abandoned 5.6-mile portion of the MCRR right-of-way between milepost 262.906 and milepost 257.283.<sup>3</sup>

---

<sup>2</sup> The Environmental and Historic Reports are available for viewing on the Board's website at [www.stb.dot.gov](http://www.stb.dot.gov) by going to "E-Library," selecting "Filings," and then conducting a search for AB 1068 (Sub-No. 1X).

<sup>3</sup> MCRR filed a Notice of Interim Trail Use Agreement and Property Transfer with the Board on October 31, 2012. See Missouri Central R.R.Co. – Aban. and Discontinuance of Service Exemption – In Cass County, Mo, AB 1068X.

The U.S. Army Corps of Engineers (Corps) submitted comments stating that a Corps permit under Section 404 of the Clean Water Act (33 U.S.C. § 1344) would not be required if the salvage activities resulting from the proposed abandonment and discontinuance of service do not alter the contour of the underlying roadbed, or involve any in-stream work including the dredging and/or placement of fill materials. As previously stated, MCRR does not intend to remove or appreciably alter the contour of the roadbed underlying the rail line. OEA has therefore concluded that a Corps permit would not be required for the proposed abandonment and discontinuance of service, but has included the Corps in the service list for this proceeding so that it may review the EA, and provide additional comments, if necessary.

The U.S. Fish and Wildlife Service (USFWS) initially commented that no federally listed species, candidate species, or designated critical habitats were known to exist within the project area. USFWS has since determined that the Indiana bat (*Myotis sodalist*), a federally-listed endangered species, may now occur in the project area. While no Indiana bats or threatened or endangered species have been observed to date, four areas of potential Indiana bat habitat were observed in the project corridor. USFWS believes that more information is warranted and seeks input from OEA through the Section 7 process of the Endangered Species Act. OEA has acknowledged this request, and in a May 2, 2013 letter to USFWS, designated MCRR and their representatives as “non-federal representatives” for purposes of Section 7 consultation. MCRR is authorized to conduct informal consultations with USFWS, prepare a biological assessment, and/or provide information for a formal consultation, pursuant to the interagency regulations at 50 C.F.R. § 402.8. MCRR may also contact and work with the appropriate USFWS office to ensure that any effects on federally-listed or proposed threatened or endangered species or their critical habitats are identified and evaluated during the Board’s environmental review process. Accordingly, OEA has included a condition in this EA that precludes MCRR from initiating salvage activities (including removal of tracks and ties) and/or filing for its notice of consummation until OEA and USFWS have completed the Section 7 consultation process.

The National Geodetic Survey (NGS) initially commented that 12 geodetic survey markers were located inside the rail line right-of-way proposed for abandonment and discontinuance of service. This number has since been reduced to four geodetic survey markers inside the right-of-way and one marker outside the right-of-way. NGS notes that the marker outside the right-of-way, NGS Point JD 1933, is located approximately 15 feet from the rail line right-of-way near the Highway 52 crossing near Windsor and may be disturbed during salvage operations. NGS does not believe any of the markers inside the right-of-way would be disturbed during salvage, but requests that it be notified for the one marker, NGS Point JD 1933, outside the right-of-way. Accordingly, OEA has included a condition in this EA that would require MCRR to notify NGS at least 90 days prior to beginning salvage activities that would disturb or destroy any geodetic station markers within the area of the proposed abandonment and discontinuance of service.

The Natural Resources Conservation Service (NRCS) submitted comments indicating that the Farmland Protection Policy Act (FPPA) does not apply to existing right-of-way purchased prior to August 4, 1984. The rail corridor of the rail line proposed for abandonment and discontinuance of service is part of the former Rock Island Line and dates to between the mid-1850s to early 1900s. The rail line changed hands a number of times before coming into

MCRRs possession in 1999, but was established well before 1984. OEA believes the FPPA exemption applies here, but has included NRCS in the service list for this proceeding so that it may review this EA and comment, if necessary.

The State of Missouri's Office of Administration filed comments indicating that the Missouri Federal Assistance Clearinghouse, in cooperation with state and local agencies, reviewed the proposed abandonment and discontinuance of service, and had no comments to offer at this time.

OEA believes that any air emissions associated with salvage operations would be temporary and would not have a significant impact on air quality. Noise associated with salvage activities would also be temporary and should not have a significant impact on the area surrounding the proposed abandonment.

Applicants state that there are no known hazardous waste sites on or adjacent to the right-of-way. Applicants contacted the U.S. Environmental Protection Agency's (EPA) Region 7 office, and the Missouri Department of Natural Resources (MDNR) for any comments they may have regarding this subject, but to date, have not received responses. OEA has included EPA and MDNR in the service list for this proceeding so that they may receive a copy of the EA for review.

Based on all information available to date, OEA does not believe that salvage activities would cause significant environmental impacts. In addition to the parties on the Board's service list for this proceeding, OEA is providing a copy of this EA to the following agencies for review and comment: the U.S. Fish and Wildlife Service; the U.S. Environmental Protection Agency; the U.S. Army Corps of Engineers; the Natural Resources Conservation Service; the National Park Service; the National Geodetic Survey; the Missouri Department of Natural Resources; the Cass County Commissioners; the Henry County Commissioners; the Johnson County Commissioners; and the Pettis County Commissioners.

## **HISTORIC REVIEW**

MCCR served the Historic Report on the Missouri Department of Natural Resources State Historic Preservation Office (SHPO), pursuant to 49 C.F.R. § 1105.8(c) as required by the Board's environmental rules [49 C.F.R. § 1105.8(a)]. The rail corridor is part of the former Rock Island Line, which became the first rail line to connect Chicago with the Mississippi River in 1854, and it is significant in Missouri railroad history because, in 1901, the Rock Island acquired a local line – the St. Louis, Kansas City & Colorado Railroad line – as part of a plan to connect Kansas City with St. Louis. Accordingly, the SHPO submitted comments stating that the rail corridor, bridges and culverts on the line are eligible for inclusion in the National Register of Historic Places (National Register). The SHPO's determination potentially includes

other rail related properties, such as the three Rock Island Lakes located in and near the project area.<sup>4</sup>

MCRR has provided the SHPO's office with an inventory of all the structures in the rail line right-of-way, or area of potential effect (APE), and is working with the SHPO for any other documentation that may be needed. A Memorandum of Agreement (MOA)<sup>5</sup> will be prepared as part of the proceeding, as was done in the prior referenced previously abandoned 5.6-mile portion of the MCRR right-of-way between milepost 262.906 and milepost 257.283.<sup>6</sup>

Accordingly, OEA is recommending a condition that would require MCRR to retain its interest in and take no steps to alter the historic integrity of all historic properties including sites, buildings, structures and objects within the project right-of-way, or APE, eligible for listing or listed in the National Register until completion of the Section 106 process. Guidance regarding the Board's historic preservation review process is available on the Board's website at <http://www.stb.dot.gov/stb/environment/preservation.html>.

Pursuant to 36 C.F.R. § 800.2, OEA conducted a search of the Native American Consultation Database to identify federally-recognized tribes that may have ancestral connections to the project area.<sup>7</sup> The database indicates that there are nine federally-recognized tribes that may have knowledge regarding properties of traditional religious and cultural significance within the right-of-way or APE of the proposed abandonment. The tribes are: the Iowa Tribe of Kansas and Nebraska; the Iowa Tribe of Oklahoma; the Omaha Tribe of Nebraska; the Osage Nation; the Otoe-Missouria Tribe of Indians; the Peoria Tribe of Indians of Oklahoma; the Sac and Fox Nation of Missouri in Kansas and Nebraska; the Sac and Fox Nation of Oklahoma; and the Sac and Fox Tribe of the Mississippi in Iowa. Two of these tribes, the Osage Nation and the Peoria Tribe of Indians in Oklahoma, were consulting parties to the previously referenced MOA that was prepared for the 5.6-mile adjoining rail line, and several other tribes provided notice of interest in participating in the MOA process after it had been completed.<sup>8</sup> To ensure input by all interested parties and to avoid or minimize any adverse effects that the proposed abandonment and discontinuance of service might have on historic and cultural resources, OEA has included a letter with this EA that invites the nine federally-recognized tribes to participate in the MOA process, pursuant to 36 C.F.R. § 800.3.

---

<sup>4</sup> The Board's statutory authority is limited to the rail line right-of-way, or area of potential effect, therefore any structures or objects outside the right-of-way, such as the Rock Island Lakes, would be outside of the Board's jurisdictional control.

<sup>5</sup> A Memorandum of Agreement is an agreed-upon document that defines steps to avoid, minimize, or mitigate adverse effects associated with a proposed action.

<sup>6</sup> See generally Missouri Central R.R.Co. – Aban. and Discontinuance of Service Exemption – In Cass County, Mo., AB 1068X.

<sup>7</sup> Native American Consultation Database, <http://grants.cr.nps.gov/nacd/index.cfm> (last visited May 31, 2013).

<sup>8</sup> These tribes indicated that the contact information was incorrect or outdated. OEA has included all recent contact information in the service list.

## **CONDITIONS**

We recommend that the following conditions be imposed on any decision granting abandonment authority:

1. Pursuant to Section 7 of the Endangered Species Act (16 U.S.C. §1535), the Missouri Central Railroad Company (MCRR) shall consult with the Board's Office of Environmental Analysis and the U.S. Fish and Wildlife Service to determine if the proposed abandonment could adversely impact the Indiana bat (*Myotis sodalis*), a federally listed endangered species, or Indiana bat habitat. If the Indiana bat or Indiana bat habitat is located within the right-of-way, USFWS may recommend avoidance and impact mitigation measures. In order to develop appropriate mitigation measures, if necessary, MCRR may not file its consummation notice or initiate any salvage activities related to abandonment (including removal of tracks and ties) until the Section 7 consultation process is complete and the Board has removed this condition.
2. MCRR shall consult with the National Geodetic Survey (NGS) and notify NGS at least 90 days prior to beginning salvage activities that will disturb or destroy any geodetic station markers.
3. MCRR shall retain its interest in and take no steps to alter the historic integrity of all historic properties including sites, buildings, structures, and objects within the project right-of-way (the Area of Potential Effect) that are eligible for listing or listed in the National Register of Historic Places until the Section 106 process of the National Historic Preservation Act, 16 U.S.C. 470f, has been completed. MCRR shall report back to OEA regarding any consultations with the State Historic Preservation Office and the public. MCRR may not file its consummation notice or initiate any salvage activities related to abandonment (including removal of tracks and ties) until the Section 106 process has been completed and the Board has removed this condition.

## **CONCLUSIONS**

Based on the information provided from all sources to date, OEA concludes that, as currently proposed and if the recommended mitigation is imposed, abandonment of the line will not significantly affect the quality of the human environment. Therefore, the environmental impact statement process is unnecessary.

Alternatives to the proposed abandonment would include denial (and therefore no change in operations), discontinuance of service without abandonment, and continued operation by another operator. In any of these cases, the existing quality of the human environment and energy consumption should not be affected.

## **PUBLIC USE**

Following abandonment and salvage of the rail line, the right-of-way may be suitable for other public use. A request containing the requisite 4-part showing for imposition of a public use condition (49 C.F.R. § 1152.28) must be filed with the Board and served on the railroad within the time specified in the Federal Register notice.

## **TRAILS USE**

A request for a notice of interim trail use (NITU) is due to the Board, with a copy to the railroad, within 10 days of publication of the notice of exemption in the Federal Register. Nevertheless, the Board will accept late-filed requests as long as it retains jurisdiction to do so in a particular case. This request must comply with the Board's rules for use of rights-of-way as trails (49 C.F.R. § 1152.29).

## **PUBLIC ASSISTANCE**

The Board's Office of Public Assistance, Governmental Affairs, and Compliance (OPAGAC) responds to questions regarding interim trail use, public use, and other reuse alternatives. You may contact OPAGAC directly at (202) 245-0238, or mail inquiries to Surface Transportation Board, Office of Public Assistance, Governmental Affairs, and Compliance, Washington, DC 20423.

## **COMMENTS**

If you wish to file comments regarding this Environmental Assessment, send an **original and two copies** to Surface Transportation Board, Case Control Unit, Washington, DC 20423, to the attention of Diana Wood, who prepared this Environmental Assessment. Environmental comments may also be filed electronically on the Board's web site, [www.stb.dot.gov](http://www.stb.dot.gov), by clicking on the "E-FILING" link. **Please refer to Docket No. AB 1068 (Sub-No. 1X) and AB 1070 (Sub-No. 1X) in all correspondence, including e-filings, addressed to the Board.** If you have any questions regarding this Environmental Assessment, please contact Diana Wood, the environmental contact for this case, by phone at (202) 245-0302, fax at (202) 245-0454, or e-mail at [woodd@stb.dot.gov](mailto:woodd@stb.dot.gov).

Date made available to the public: June 14, 2013.

**Comment due date: July 1, 2013.**

By the Board, Victoria Rutson, Director, Office of Environmental Analysis.

Attachment